sition that a threatened impossibility, at least where the health or safety of human beings is involved, excuses performance, provided the case is one in which actual impossibility of performance would itself excuse. *Lakeman* v. *Pollard,* 43 Me. 463; *The Kronprinzessin Cecilie,* 244 U. S. 12. See also *Liston* v. *Steamship Carpathian,* [1915] 2 K. B. 42; *Hanford* v. *Conn. Fair Ass'n* (Conn., 1918), 103 Atl. 838. Unless it can be said that the plaintiff's salary was payable as a retainer and not for work done, it would seem to follow that the actual illness of all the pupils would excuse performance by the defendant. In that event, plaintiff would not be entitled to salary because he could not perform the condition precedent upon which his right to salary depends. So where the school was closed by operation of law and there were no pupils to be taught for that reason, the teacher was held not entitled to salary. *School District No.* 16 *of Sherman County* v. *Howard* (Nebr., 1904), 98 N. W. 666. If this argument is sound, then the impossibility threatened in the principal case, on the authorities cited *supra,* would seem to justify the action taken by the defendant and to excuse it from any obligation to the plaintiff. In accord with the principal case, see *Dewey* v. *The Union School District,* 43 Mich. 480; *School District No.* 16 *of Sherman County* v. *Howard, supra* (*semble*). These cases may perhaps be justified on the ground that the contracts of such employees, properly construed, are, after all, retainer contracts, and that the school district has assumed the risk. At any rate, if the teacher, at the request of the school authorities, keeps himself in readiness to teach at all times, he is entitled to salary. *Libby* v. *Inhabitants of Douglas,* 175 Mass. 128.

COVENANTS FOR TITLE—SEISIN—WHAT AMOUNTS TO BREACH.—The grantees of land, being tenants by entirety under a deed with covenant of seisin, entered into a contract for the sale of it; the purchaser from the grantees repudiated the contract and obtained judgment for an advance payment and costs on the ground that the title was not marketable. The defendants notified their grantors of the action, but they refused to defend the suit. In an action by the surviving grantee it was *held* that the grantors were liable for breach of the covenant of seisin. *Hilliker* v. *Rueger* (N. Y., 1920), 126 N. E. Rep. 266.

It is generally held in the United States that the covenant of seisin, *if broken at all,* is broken as soon as made. But the courts are not in accord as to the scope of the covenant, the majority holding as in the principal case that it means lawfully seized in fee simple. A few states hold it to be satisfied by an exclusive possession with claim of fee. *Bearce* v. *Jackson,* 4 Mass. 408; *Montgomery* v. *Reed,* 69 Me. 510; *Scott* v. *Twist,* 4 Nebr. 133; *Watts* v. *Parker,* 27 Ill. 223; *Peters* v. *Bowman,* 98 U. S. 56. See RAWLE, COVENANTS FOR TITLE, 38-65. According to *Backus* v. *McCoy,* 3 Ohio 211, *Stambaugh* v. *Smith,* 23 Oh. St. 588, and *Brooks* v. *Mohl,* 104 Minn. 404, the covenant is satisfied if the grantor is in possession claiming a fee, but that there is a breach when the grantee or those claiming under him is evicted.

McLennan v. *Prentice,* 85 Wis. 427, holds that when the grantee has been put into possession a breach of the covenant of seisin entitles him only to nominal damages unless evicted.

CRIMINAL LAW—INTENT PRESUMED FROM NATURAL RESULT OF ACT IS REBUTTABLE.—Defendant was convicted under Espionage Act for utterances made in a public speech; he not only denied making the statements alleged but specifically denied that he ever entertained any intent to obstruct the recruiting service or to attempt to cause insubordination, disloyalty, mutiny and refusal of duty in the military or naval forces—which specific intent was apparently necessary to conviction in the present action. The proof of the prosecution rested mainly upon the words themselves, coupled with their utterance to a crowd of people, and their natural and probable effect upon such auditors. *Held,* under such circumstances, an instruction that a man cannot say that he did not intend to do a certain thing when such thing was the natural result of his act, erroneous. *Bental* v. *U. S.* (C. C. A., 8th Cir., 1919), 262 Fed. 744.

This case admits the general principle so often laid down that where one knowingly does an act (including utterance of words), the presumption arises that he intended the results which would naturally follow. See *Reynolds* v. *U. S.,* 98 U. S. 145; *U. S.* v. *Breese,* 173 Fed. 402; *U. S.* v. *McClare,* 26 Fed. Cas. No. 15659. But further says that where the act must be "knowingly and willfully" done, as here, this presumption, while constituting strong evidence, is not conclusive but rebuttable; citing *Hicks* v. *U. S.,* 150 U. S. 447; and the testimony of defendant that he intended no such result may be so received in rebuttal thereof. Above instruction was held erroneous because it practically negatived such testimony on his part. See on this point 1 WHARTON ON CRIM. EVI. [10th Ed.], § 431. There was a dissent in this case, proceeding on the ground that this instruction constituted merely the opinion of the court on the weight of the evidence, as permissible in Federal practice; see *Freese* v. *Kemplay,* 118 Fed. 428; further, that as such opinion it was obviously true, and the jury being cautioned that they were the exclusive judges of all questions of fact and were not to be governed by any expressions of the court, that thus there was no error in the instruction. Also that for the jury really to give any effect to the defendant's testimony under the circumstances of this case would make such criminal prosecution a farce. If, in form, the instruction here did constitute merely a comment on the weight of the evidence, probably this dissent is correct. So far as can be ascertained from the report, however, it is given in the ordinary form of an instruction. As such it practically excludes from the consideration of the jury all testimony of the defendant as to his intention, and would seem on this ground to be erroneous. See 1 WHARTON, CRIM. EVI. [10th Ed.], § 431, which, speaking of testimony of a defendant as to his intent, is as follows: "While such answers are not conclusive, they cannot be ignored, but must be considered in connection with all the other evidence in the case. Where an instruction requires the jury to ignore such statements it is error."